

RESOLUTION NO. 92-67

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A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING AGREEMENT FOR PROCESSING PARKING CITATIONS
BETWEEN THE CITY OF LODI AND WEST-COMPUTIL CORPORATION

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RESOLVED, that the Lodi City Council does hereby approve an agreement between the City of Lodi and West-Computil Corporation for the processing of fines, bail and forfeiture thereof, in connection with the issuance of citations for illegal parking pursuant to the laws of the State of California; and

RESOLVED, that said agreement shall be for an initial period of one (1) year commencing as of the last date of signature at a cost of \$1.10 per citation; and

BE IT FURTHER RESOLVED, that the City Council hereby authorizes the City Manager and City Clerk to execute the agreement on behalf of the City.

Dated: April 15, 1992

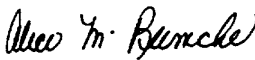
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I hereby certify that Resolution No. 92-67 was passed and adopted by the Lodi City Council in a regular meeting held April 15, 1992 by the following vote:

Ayes: Council Members - Hinchman, Pennino, Sieglock, Snider
and Pinkerton (Mayor)

Noes: Council Members - None

Absent: Council Members - None


Alice M. Reimche
City Clerk

AGREEMENT FOR PROCESSING PARKING CITATIONS

This Agreement is made and entered into, in duplicate originals, between

"West-Computil Corporation"
a California Corporation
18700 Beach Boulevard, Suite 110,
Huntington Beach, California 92648
(hereinafter sometimes referred to as COMPANY")

AND

"City of Lodi"
P.O. Box 3006
Lodi, CA 95233

(hereinafter sometimes referred to as "PUBLIC ENTITY"),
is made and entered into as of this ____ day of ____, 1992.

The parties intend by this Agreement to provide for the processing of fines, bail and forfeiture thereof, in connection with the issuance of citations for illegal parking pursuant to the laws of the State of California.

ARTICLE I - CITATION PROCESSING

1.1 Referral and Reconciliation: COMPANY shall receive and process parking citations which COMPANY shall receive from PUBLIC ENTITY. COMPANY will provide a reconciliation of the number of citations received from PUBLIC ENTITY. The PUBLIC ENTITY will be notified of discrepancies in citation counts received for processing.

1.2 Determination of Processable Citations: COMPANY shall screen the parking citations referred to it by PUBLIC ENTITY to determine if the citation is processable. If the citation is determined by COMPANY to be unprocessable (e.g., essential processing information is missing), COMPANY shall return the citation to PUBLIC ENTITY within seven (7) days for clarification. COMPANY will be paid the contractual rate hereinafter provided, for citations properly returned to the PUBLIC ENTITY as unprocessable.

1.3 Collection and deposit of funds: A "direct deposit" system shall be employed for all funds received in payment of citations. The PUBLIC ENTITY shall own the account and deposits shall be made directly into the account by the COMPANY for the collecting PUBLIC ENTITY. The COMPANY will invoice the PUBLIC ENTITY for services rendered. Payment in full shall be due within thirty (30) days after which interest shall be accrued at the rate of 12% (or lower if any statutes, rules or regulations prohibit this rate).

1.4 Identification of Registered Vehicle Owners: COMPANY shall make up to ten (10) requests to obtain the name and address of the registered vehicle owner from the California State Department of Motor Vehicles. The number of attempts made to obtain information from the appropriate out-of-state Department of Motor Vehicles for each respective out-of-state registered vehicle for which a parking citation has been issued but payment has not been received within the required time period will be discretion of COMPANY.

1.5 Verification of Ownership: COMPANY will take reasonable measures to identify and verify registered vehicle owners. Such measures will take into consideration factors such as issuance of new license plates; address changes; license plate transfers to other vehicles; name changes; and the validity of plates and registration during specific time periods applicable to individual cases.

1.6 Delinquency Notices: In accordance with State law COMPANY will generate and mail (presorted, first-class postage) no sooner than forty-one (41) days of the citation issuance date, a delinquency notice to all identified registered owners of vehicles who fail to pay their parking citation fines or to post bail in the required manner. The mailed notice will include all information required by the California Vehicle Code, including, but not limited to, the following:

- A. The parking citation issuance date and number;
- B. The consequences of nonpayment (i.e., a hold on the vehicle registration and the imposition of penalties, towing, or issuance of a possible warrant for their arrest; and
- C. The amount of fines and fees due and payable.

1.7 Registration Holds: The COMPANY will provide the system and procedures and will interface with the California State Department of Motor Vehicles to place a hold on vehicle registration having unpaid parking fines and fees due against those vehicles in accordance with the California Vehicle Code and any other applicable State and local laws.

1.8 Removal of Registration Holds: COMPANY will provide the system and procedures and will interface with the California State Department of Motor Vehicles to remove registration holds when a registered vehicle owner satisfies the entire amount of parking citation fines, penalties, and fees due against the vehicle and establishes such payment to the satisfaction of COMPANY.

1.9 Contested Citations: In the event a registered vehicle owner disputes the liability for the outstanding parking citation, COMPANY will advise the registered vehicle owner of his/her right to request a court appearance. All contested citations will be forwarded to the Municipal Court or PUBLIC ENTITY within a reasonable time period after notification by the court that the matter has been set for adjudication.

1.10 Citations imposed of by Court: The COMPANY may be required, as a result of court action, to reduce or cancel, on an individual basis, parking citations which have been referred to it. COMPANY shall be paid the contractual rate hereinafter provided for processing the citation regardless of the outcome of court action. COMPANY will maintain records indicating any reduction or cancellations of parking citations as a result of court action. Parking citations which are dismissed as a result of court action, will have the dismissal processed by the COMPANY promptly after receipt from the Municipal Court.

1.11 Suspension of Processing: COMPANY will suspend processing on any citation referred to it for processing upon written notice to do so by an authorized officer of the PUBLIC ENTITY. COMPANY will promptly return any citation or facsimile properly requested by the PUBLIC ENTITY. COMPANY will maintain records indicating any suspension of citation as a result of PUBLIC ENTITY'S request. COMPANY shall be paid the contractual rate hereinafter provided for processing the citations suspended by the PUBLIC ENTITY.

1.12 Payments by U.S. Mail: The postmark date will be the criteria to establish any delinquent fees due.

1.13 Parking Citation System Master File Update: COMPANY will regularly update the parking citation master file for new citations, payments, reductions, cancellations, dismissals and any other pertinent data.

ARTICLE II - PAYMENT PROCESSING

2.1 Disposition Processing: COMPANY will maintain all citation dispositions for a minimum of one (1) year. Closed citations will remain on-line for at least one (1) year, for research and statistical purposes.

2.2 Payments Processing: COMPANY shall process citation payments on a regular basis. Payments shall be immediately posted in one (1) of three (3) following categories:

"Regular Payments" are citations with the correct bail, paid on or before the due date. (This includes payments properly complying with prior Notices-of-Intent).

"Partial Payments" are citations paid after the due date, or if the defendant has paid less than the amount of bail due. A Notice-of-Intent, or a postcard will advise defendant of late charges and/or incorrect bail. In such cases, COMPANY, in its discretion, may return the original check to the sender.

"Court Requests" are all requests for court hearings by defendants. These requests are sorted so that bail submitted is immediately posted, and if needed the original citations are retrieved.

2.3 Miscellaneous Letters Processing: COMPANY will receive and review all miscellaneous correspondence. These are generally letters requesting meter checks, refunds, voids, or otherwise setting forth complaints. These letters will be researched by COMPANY for proper follow-up by the PUBLIC ENTITY.

2.4 Batching Procedures: COMPANY shall maintain an effective method of internal control procedures. Such procedures shall involve reconciliation of all payments received using generally accepted accounting principles. After proper reconciliation, deposit slips shall be prepared for and deposits made at the appropriate bank, including an itemized listing of all batch numbers included in the deposit. The batch of citations payment documentation shall then be stored in a file room, for a period of one (1) year.

2.5 Cash Payments: COMPANY shall maintain an effective method of handling cash payments. All cash received through the mail, shall be logged in a cash journal. Thereafter, effective internal control procedures shall be implemented to reconcile such payments.

2.6 Deposits: All deposits shall be made daily, subject to regular banking hours. Deposits shall be itemized and detailed information will be captured regarding submitted funds. Deposit slips shall be prepared in triplicate, allowing one (1) copy for the PUBLIC ENTITY and one (1) copy for the COMPANY. All deposits shall be directly deposited into the PUBLIC ENTITY's designated bank account. PUBLIC ENTITY will supply deposit slips and endorsement stamp to COMPANY. COMPANY shall only have the capability to make deposits on behalf of the PUBLIC ENTITY.

2.7 Revenue Report: A monthly revenue report will list all revenues received during the preceding month. This report will also provide information regarding the PUBLIC ENTITY's responsibility to the County for the Jail and Court fund if applicable.

ARTICLE III - GENERAL

3.1 Public Inquiries: The COMPANY will respond to reasonable inquiry by telephone or letter of a nonjudicial nature. Inquiries of a judicial nature will be referred to the PUBLIC ENTITY for determination.

3.2 COMPANY Limitations: COMPANY will not take legal action or threaten legal action in any specific case without PUBLIC ENTITY's prior approval.

3.3 Use of Approved Forms: PUBLIC ENTITY shall have the right to reasonable approval of all forms, delinquency notices, and correspondence sent by the COMPANY must conform to State and local law.

3.4 Books and Records: COMPANY will maintain adequate books or records for parking citations issued within the PUBLIC ENTITY's jurisdiction and referred to COMPANY for processing. Such books or records, and related computer processing data, shall be available for reasonable inspection and audit by PUBLIC ENTITY at the COMPANY's location at reasonable times upon adequate prior notice to COMPANY.

3.5 Property of COMPANY:

- A. The parties hereto agree that COMPANY is the owner of and shall remain the owner of all its concepts, approaches, trade secrets, computer programs, experience, written procedures, forms, magnetic tapes, punch cards, and similar computer materials related to the activities conducted pursuant to this Agreement.
- B. Trade secrets shall include, without limitation, computer software and ideas included therein.
- C. During the term of this Agreement and the relationship of the parties, COMPANY may develop new and additional programs and/or methods of handling and processing data. All such subsequent developments, programs and methods are agreed to be the property of COMPANY.

3.6 Property of PUBLIC ENTITY: All documents, records and tapes supplied by PUBLIC ENTITY to COMPANY in performance of this contract is agreed to be and shall remain the sole property of PUBLIC ENTITY. COMPANY agrees to return same promptly to PUBLIC ENTITY no later than forty-five (45) days following notice to the COMPANY. The PUBLIC ENTITY shall make arrangements with COMPANY for the transmission of such data to the PUBLIC ENTITY upon payment to COMPANY of the cost of copy and delivery of such tape from COMPANY's computer facilities to PUBLIC ENTITY's designated point of delivery. If termination of this Agreement is by COMPANY and not based upon fault of PUBLIC ENTITY, COMPANY will waive all costs required by this paragraph.

3.7 COMPANY Files: COMPANY shall maintain master files on parking citation referred to it for processing under this Agreement. Such files will contain records of payments, dispositions, and any other pertinent information required to provide a reasonable audit trail.

3.8. Storage for PUBLIC ENTITY:

- A. COMPANY agrees to store original citations for three (3) years, at which time they will be returned to PUBLIC ENTITY. COMPANY will have such information available on system or magnetic tape data for PUBLIC ENTITY's parking citations for a reasonable time period to permit PUBLIC ENTITY retrieval of such information. PUBLIC ENTITY relieves COMPANY of all liability costs associated with data released by PUBLIC ENTITY to any other person or entity using such data.
- B. Subsequent to the termination of the contract, COMPANY will return hard copy to the PUBLIC ENTITY. If requested, a magnetic tape of its processed data will be provided for a fee of Seventy-Five Dollars (\$75.00) per magnetic tape.

ARTICLE IV - CONTRACT PRICE

4.1 Basis for Fee Structure: The fee structure hereinafter provided shall be based on the combined parking citation volume.

4.2 Basis of Fee Computation: The fee due and payable to COMPANY will be computed on a per parking citation basis and will be based on the issuance date of the citation. Each parking citation assigned to COMPANY for processing shall be utilized in computing the base for the total fee. Once the initial fee has been charged for a parking citation, no additional costs can be charged by COMPANY to pursue collection except as defined in Article III, Section 3.8b, Article IV, Section 4.4 and 4.5, of this Agreement.

4.3 Rate: The fee for the term of this Agreement is One Dollar and ten cents (\$1.10) per parking citation.

4.4 Other Fees: COMPANY shall retain thirty-eight percent (38%) of payments for delinquent citations which have been processed in accordance with the current Agreement, and meet the following criteria:

- A. Citations for which the California State Department of Motor Vehicles has dropped the registration hold because of a transfer of ownership or non-renewal registration.
- B. Citations with out-of-state license plates.
- C. Any other problem or special citations which PUBLIC ENTITY so designates and refers to COMPANY under this Agreement.

4.5. Postal Rate Increase: The COMPANY will maintain auditable records to document the COMPANY's actual increase in postage costs associated with the mailing of delinquency notices for unpaid citation and for other mailings related to the processing of correspondence, etc., concerning any citations. COMPANY will be reimbursed for postal rate increases for presorted first-class mail on a per piece mailed basis. The increase will be effective on the date that the postal rate increase takes place.

ARTICLE V - REPORTS

5.1 Periodic Reports: COMPANY will submit reports to PUBLIC ENTITY promptly after the end of the month or other reporting period. The reports will provide activities relating to performance under this Agreement. Among the reports which COMPANY may generate are the following:

- A. Report of Revenue Collected for Period
- B. Report by Parking Citations Issued for Period
- C. A balanced summary report by issuing PUBLIC ENTITY providing the status of all parking citations at the beginning of the period, current period activity, and at the end of the period.
- D. A report by issuing Agency identifying registered vehicle owners with five (5) or more outstanding parking citations.
- E. A report by issuing Agency and officer identifying the parking citations issued, location, violation and bail imposed.

5.2 Microfiche: At PUBLIC ENTITY's sole cost and expense, COMPANY will provide all available reports on microfiche, if PUBLIC ENTITY so requests in writing.

ARTICLE VI - TERM OF CONTRACT AND ADDITIONAL SERVICES

6.1 Term and Renewals: This Agreement shall be for an initial period of three (3) years commencing as of the last date of signature. Unless notice of termination is made in writing by either party to the other no less than thirty (30) days prior to the end of the scheduled term, this Agreement shall automatically renew for subsequent one (1) year periods. In conjunction with this automatic extension of the terms of this Agreement, COMPANY may give notice of reasonable price adjustments for its processing services. Unless PUBLIC ENTITY gives notice in writing of its rejection of these price adjustments, the term shall be extended with these price adjustments as stated. If the PUBLIC ENTITY gives notice of its rejection of these price adjustments, unless there is a further written Agreement between the parties, the term of the Agreement shall not be extended and the Agreement shall terminate.

6.2 Cancellation: Upon a material breach or upon sixty (60) days written notice to COMPANY, the PUBLIC ENTITY may cancel or terminate this Agreement. The COMPANY shall have thirty (30) days to cure any material breach or defect set forth in the written termination notice provided by PUBLIC ENTITY.

6.3 Exclusivity: PUBLIC ENTITY agrees to utilize only the services of COMPANY during the term of this Agreement for the processing of the citations referred to above. PUBLIC ENTITY agrees during the term of the Agreement to not directly or indirectly assist a competitor of COMPANY in the performance of the services provided by COMPANY under this Agreement, and never to divulge the trade secrets or property of COMPANY to any unauthorized person or entity. This Non-Disclosure obligation shall survive the termination of this Agreement.

ARTICLE VII - CONFIDENTIALITY

7.1 Material Confidential: PUBLIC ENTITY agrees to keep confidential the procedures, approaches, and trade secrets of the COMPANY. COMPANY agrees to keep confidential the data supplied it by PUBLIC ENTITY except if the same is delivered to or release to a third party or parties at the request of PUBLIC ENTITY or as reasonably anticipated in order to supply the herein services to PUBLIC ENTITY, e.g. delivery of information to Department of Motor Vehicles. COMPANY shall not be obligated to keep confidential techniques developed by COMPANY jointly with PUBLIC ENTITY regarding this subject of this Agreement.

ARTICLE VIII - CLAIMS AND ACTIONS

8.1 Reasonable Assistance of COMPANY: In the event any claim or action is brought against PUBLIC ENTITY relating to COMPANY's performance or services rendered under this Agreement, COMPANY shall render any reasonable assistance and cooperation which PUBLIC ENTITY might require.

8.2 PUBLIC ENTITY Cooperation: In the event any claim or action is brought against COMPANY relating to COMPANY's performance of services rendered under this Agreement, COMPANY shall notify the PUBLIC ENTITY, in writing, within five (5) days, of said claim or action.

ARTICLE IX - SUBCONTRACTORS AND ASSIGNMENTS

9.1 Subcontracting: COMPANY is authorized to engage subcontracts, as permitted by law at COMPANY's own expense.

9.2 Assignments: This contract may not be assigned without the prior written consent of the PUBLIC ENTITY.

ARTICLE X - INDEPENDENT COMPANY

10.1 COMPANY's Relationship: COMPANY's relationship to PUBLIC ENTITY in the performance of this Agreement is that of an independent COMPANY. Personnel performing services under this Agreement shall at all times be under COMPANY's exclusive direction and control and shall be employees of COMPANY and not employees of the PUBLIC ENTITY. COMPANY shall pay all wages and salaries and shall be responsible for all reports and obligations respecting them relating to social security, income tax withholding, unemployment compensation, worker's compensation, and similar matters. Neither COMPANY nor any agent or employee of COMPANY shall obtain any right to retirement benefits or other benefits which accrue to employees of PUBLIC ENTITY, and COMPANY hereby expressly waives any claim it might have to such rights.

ARTICLE XI - INSURANCE

11.1 Insurance Provisions: COMPANY shall provide and maintain at its own expense during the term of this Agreement, the following policy or policies of insurance covering its operations hereunder. Such insurance shall be provided by insurer(s) satisfactory to the PUBLIC ENTITY and certificates of such insurance shall be delivered to the PUBLIC ENTITY on or before the effective date of this Agreement. Such certificates shall specifically identify this Agreement and shall not be cancelled, reduced in coverage or limits or non-renewed except after thirty (30) days written notice has been given to the PUBLIC ENTITY.

- a) Comprehensive general liability insurance covering bodily and personal injury and property damage. Limits shall be in an amount of not less than \$1,000,000 per occurrence. Such insurance policies shall name the PUBLIC ENTITY, its officers, agents and employees, individually and collectively, as additionally insured. Such coverage for additional insured shall apply as primary insurance and any other insurance or self-insured retention maintained by the PUBLIC ENTITY its officers, agents and employees shall be excess only and not contributing with insurance provided under said policy.

Should the above policy be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 day written notice to the certificate holder named on the policy, but failure to mail such notice shall impose no obligation or liability of any kind upon the insurance company, its agents or representatives.

b. Comprehensive automobile liability owned, non-owned and hired vehicles with not less than One Million (\$1,000,000) Dollars combined single limit, per occurrence for property damage and for bodily injury or death of persons. Such insurance shall include the same additional-insured and cancellation notice provisions as specified above and may be combined with the comprehensive general liability coverage required above.

c. Throughout the period of agreement COMPANY, at its sole cost, shall maintain in full force and effect a policy of workers' compensation insurance covering all of its employees as required by the labor code of the State of California.

ARTICLE XII - ENTIRE AGREEMENT

12.1 Integrated Agreement: This contract is intended by the parties as a final expression of their Agreement and also as a complete and exclusive statement of the terms thereof, any prior oral or written Agreement regarding the same subject matter notwithstanding. This Agreement may not be modified or terminated orally, and no modification or any claim of waiver of any of the provision shall be effective unless in writing and signed by both parties.

12.2 Law Applicable: This Agreement shall be construed in accordance with the laws of the State of California.

12.3 Notices to Parties: Any notice required under this Agreement to be given to either party may be given by depositing in the United States mail, postage prepaid, first-class, addressed to the following:

AS TO PUBLIC ENTITY:
"City of Lodi"
P.O. Box 3006
Lodi, CA 95233

AS TO COMPANY:
West-Computil Corporation
18700 Beach Boulevard, Suite 110
Huntington Beach, CA 92648
ATTN: Mr. Alfonso J. Izzi

With a courtesy copy to

Mr. Bruce Fishelman
9200 Sunset Boulevard
Suite 1201
Los Angeles, CA 90069

or to such other persons and address as the parties may hereafter reasonably request in writing.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and year last written below.

CITY OF LODI

By: Thomas A. Peterson
Thomas A. Peterson

Approved as to form:

Date: 4/15/92

Bobby W. McNatt
Bobby W. McNatt
City Attorney

Title: City Manager

Attest:

WEST-COMPUTIL CORPORATION

By: Alfonso J. Izzi

Alice M. Reimche
Alice M. Reimche
City Clerk

Date: 3/2/92
Alfonso J. Izzi

Title: President and CEO